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MAILED

JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Scott A. Sirrine	:	
Application No. 09/736,232	:	ON PETITION
Filed: December 14, 2000	:	
Attorney Docket No. 65856-0025	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed June 9, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application was held abandoned for failure to pay the issue and publication fees on or before January 7, 2009. A Notice of Abandonment was mailed on January 30, 2009. On February 19, 2009, petitioner submitted a petition to withdraw the holding of abandonment; however, the petition was dismissed in a decision mailed April 22, 2009. In response, on June 9, 2009, the present petition was filed.

The petition asserts, by a declaration of counsel, Michael B. Stewart, that the file of the subject application was reviewed and there is no indication that the Notice of Allowance of October 7, 2008 was received. Petitioner also submits a declaration of docket clerk, Louise Schultz, regarding the routine handling of incoming mail; however, the petition fails to attest to the reliability of docketing system used. While petitioner submits a copy of a docket record of the application file in question, petitioner does not include the master docket for the firm or a statement as to the non existence of a master docket as required by MPEP 711.03(c).

The petition has been reconsidered as requested; however the result is the same. The instant petition does not establish non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c). Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing an appropriate petition to revive the application under the provisions of 37 CFR 1.137.

Petitioner should note that Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

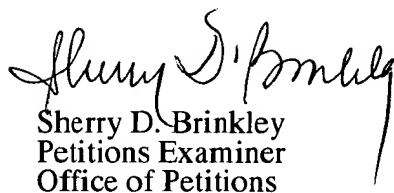
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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)